

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

DANNY W. PICKARD, #245939

Plaintiff,

v.

SGT. MOORE, *et al.*,

Defendants.

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CIVIL ACTION NO. 3:07-cv-00270-MHT-WC

ANSWER

COME NOW Sergeant Pierce Moore (hereafter, “Sergeant Moore”), Nurse Tina Riley (hereafter, “Nurse Riley”), and the Russell County Detention Center (hereafter, the “Jail”), (collectively, hereafter, the “Defendants”), Defendants in this action, and respond to the original Complaint and Amended Complaint filed by Plaintiff in the above-styled cause and state as follows:

1. Plaintiff brings his suit under 42 U.S.C. § 1983 and claims that his constitutional rights were violated by Defendants.¹ More specifically, as a pre-conviction detainee, the Plaintiff alleges that his civil rights have been violated in that he was subjected to excessive force, and denial of medical care while incarcerated in the Russell County Jail.

2. Defendants admit that the Plaintiff was incarcerated on or before January 18, 2007, at the Russell County Jail.

3. Defendants deny the remaining allegations and inferences in the Plaintiff’s Complaint and Amended Complaint.

¹ The following statement of the issues and claims made by Plaintiff are based upon Plaintiff’s Complaint and the undersigned’s interpretation of the issues raised. If other issues are presented, Defendants generally deny any such allegations as being untrue and completely without basis in law or fact.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint and Amended Complaint fails to state a claim upon which relief can be granted. Defendants did not deprive Plaintiff of any constitutional right to which he is entitled.

2. Any claims against Defendants in their official capacities are barred by the Eleventh Amendment and because Defendants are not "persons" under 42 U.S.C. § 1983.

3. Defendants are entitled to qualified immunity in their individual capacities.

4. The Plaintiff's claims are barred due to the Plaintiff's failure to exhaust all available state remedies.

5. Defendants reserve the right to add additional defenses upon a complete investigation of Plaintiff's claims, completion of any discovery allowed, and if any further pleading is required or allowed by the Court.

WHEREFORE, PREMISES CONSIDERED, Defendants request this Court to enter judgment in their favor and grant unto them costs and attorney's fees pursuant to law and 42 U.S.C. § 1988.

Respectfully submitted, this 27th day of June, 2007.

s/Scott W. Gosnell
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CERTIFICATE OF SERVICE

I hereby certify that on this the 27th day of June, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF and served the following by U.S. Mail:

Danny Pickard
AIS 245939
Russell County Jail
P.O. Box 640
Phenix City, Alabama 36868

s/Scott W. Gosnell
OF COUNSEL